



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street, 3rd Floor
New York, New York 10007

November 23, 2021

BY ECF

The Honorable Mary Kay Vyskocil
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

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Re: *Reclaim the Records, et al. v. USCIS*, No. 21-cv-6397 (MKV)

Dear Judge Vyskocil:

This Office represents the United States Citizenship and Immigration Services (“USCIS”) in connection with the above-referenced action brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552. I write to request an adjournment of the initial conference currently scheduled for December 2, 2021. This is the second request for an adjournment of the initial conference, and the Court granted the prior request. Plaintiffs consent to this request.

By way of background, Plaintiffs Reclaim the Records and Alec Ferretti (“Plaintiffs”) filed this action on July 27, 2021, alleging that USCIS did not properly fulfill several FOIA requests. As alleged in the complaint, the requests seek immigration files relating to seven individuals. Also as alleged in the complaint, “[a]ll named individuals regarding whom documents were requested are deceased and all were born more than 100 years prior to the date of the Requests.” USCIS answered the complaint on September 7, 2021. On September 8, 2021, the Court scheduled an initial conference for November 2, 2021. On October 26, 2021, the Court granted the parties’ request to adjourn the initial conference, which, as noted, is now scheduled for December 2.

It is Defendant’s position that, on November 16, 2021, Defendant produced all responsive records to Plaintiffs’ several FOIA requests except for one of those requests. As to this one request, to the extent any such records exist, Defendant has identified 501 “container boxes” that may contain the hardcopy of the requested file. Each of these container boxes contain between approximately 20 and 100 individual hardcopy immigration files. Defendant is currently in the process of searching for this file and expects that it will be able to complete that search by January 10, 2022. At that point, if it locates the file, Defendant will review the file and, to the extent no basis for withholding it applies, produce it to the Plaintiffs. Therefore, it is Defendant’s position that, by January of 2022, it expects to have fully responded to Plaintiffs’ FOIA requests.

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Accordingly, Defendant seeks an adjournment of the initial conference until a date in January after these records will have been produced (to the extent they can be located). Then, Plaintiffs can evaluate these productions and articulate to Defendant, and subsequently the Court, if they believe that summary judgment motion practice is necessary or whether Plaintiffs will not be pursuing any challenges to Defendant's response to their FOIA requests (in which case the parties will confer to determine whether they can resolve the issue of attorney's fees without motion practice). In order to allow sufficient time for the review and production of the remaining record and a subsequent meet and confer between the parties as to how they believe the litigation should proceed, the parties respectfully propose that the initial conference be adjourned to the week of January 24, 2022. At present, counsel is available any day that week except for January 24 and 25 before 1:30 p.m.

I thank the Court for its consideration of this request.


Respectfully,

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Southern District of New York

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GRANTED. The initial pre-trial conference scheduled for December 2, 2021 at 11:30 AM is ADJOURNED to February 1, 2022 at 10:00 AM. SO ORDERED.

Date: 11/23/2021
New York, New York


Mary Kay Vyskocil
United States District Judge